

Missouri Department of Mental Health (DMH)
Division of Developmental Disabilities (DD)
Federally Mandated Home and Community Based Services Settings Transition Plan

Questions and Answers

(All new information has been added in red font)

Home and Community-Based Services (HCBS) Settings Rule: State-wide Transition Planning

A final rule came out on March 17, 2014 from the Centers for Medicare & Medicaid Services (CMS). It is called the HCBS Settings Rule. In Missouri, this affects all 1915 (c) waiver programs. A 1915(c) waiver is a program that uses Medicaid dollars to provide services to a target group of people who would otherwise require services in an institution. The Missouri 1915(c) waivers are:

- DMH Waivers:
 - Autism Waiver
 - Comprehensive Waiver
 - Missouri Children with Developmental Disabilities Waiver
 - Partnership for Hope Waiver
 - Support Waiver
- Department of Health and Senior Services (DHSS) Waivers:
 - Adult Day Care Waiver
 - Aged and Disabled Waiver
 - AIDS Waiver
 - Independent Living Waiver
 - Medically Fragile Adult Waiver

Q: What is the HCBS Rule about?

The rule says that individuals receiving waiver services should be supported in their choices to be a part of their community like everyone else.

Q: What do settings mean?

Settings are where an individual receives their waiver services. It means that “settings” are more about the nature and quality of individuals’ experiences, not only about buildings where the services are delivered.

Q: What does that mean to me?

If you are an individual who receives waiver services, it means that you have the right to be supported with respect and in a very person-centered way so that you make decisions about how, when and where you get your services. It also means that you should have the opportunity to **pursue employment and** be involved in your community, coming and going where and when you want.

Q: How do I provide feedback?

You can also complete participant surveys on an annual basis to help the state understand where improvements are needed. This survey may be completed anonymously. Additional methods of

communicating with you include an FAQ document, DD email “dings”, and an updated HCBS website, all of which may be found at <http://dmh.mo.gov/dd/hcbs.html>.

Q: What does it mean to providers?

If you are a provider of waiver services, it means that you will be subject to new and enhanced policies that require providers to comply with the rule. It may mean that you will need to modify and adopt your own policies and provide training to assure your staff understands the expectations of the rule. It also means you must participate in provider surveys of how you currently deliver services as part of the final rule.

Q: What Is the Transition Plan?

States have to develop a Transition Plan to describe how they are going to determine if their HCBS services are compliant with the final rule. The Transition Plan requires states to assess HCB service settings, and to work with individuals and providers to determine remediation strategies to fix the areas that don't comply. This is the first time CMS has put in regulation a description of HCBS in this way. Because it is new, states are allowed some time to come into compliance. States must be in compliance by March 17, 2019.

Q: What is the Survey?

The Transition Plan outlines how the state will move toward and ultimately achieve compliance with the new HCBS Settings Rule. To describe the process, the state must *assess* where we are to compare where we are going. The state will require all providers to conduct a self-assessment survey annually. The state will invite individuals to complete their own survey, too.

The surveys will ask questions about individuals' experiences based on the quality characteristics of how CMS has defined home- and community-based services such as:

- Does the individual have rental rights?
- Does the individual have privacy where he/she sleeps and a private space, such as the door can be locked and the individual, not the staff, has the key to the room?
- Did the individual have a choice of roommates?
- Does the individual have the freedom to furnish and decorate his/her residence to their liking?
- Does the individual have freedom and support to control his/her schedules and activities?
- Does the individual have the freedom to choose meals and have access to food any time?
- Does or may the individual entertain visitors at his/her choosing?
- **Has the individual been affirmed of their rights to explore and pursue competitive employment in the community?**

Q. It is very important that persons with disabilities and families feel they have a voice in the overall process.

Individuals with disabilities and their families do have a voice in this process. The state drafted a state-wide transition plan on December 29, 2014 and is collecting public comments for 30 days. You can find the draft transition plan at <http://dss.mo.gov/mhd/> or any of the Department of

Mental Health Regional Offices. DD will also request participant to complete an annual survey to share their experiences. This survey may be completed anonymously. Additional methods of communicating with you include an FAQ document, DD email “dings”, and an updated HCBS website, all of which may be found at <http://dmh.mo.gov/dd/hcbs.htm>.

Q: What should I do about this?

Learn more! Get involved in Missouri’s self-assessment surveys and Transition Planning process. You can find information regarding the HCBS rule and Transition Plan at <http://dmh.mo.gov/dd/hcbs.htm>.

Q. I have heard people will lose their services with this proposed change.

No provider will be forced to close and no funding cuts are being proposed. An individual’s level of services should not change or be reduced. Supports will continue to be based upon individual needs identified in their plan. If a person has an employment goal in their individual plan, the state must ensure continued supports. The Support Coordinator is responsible for monitoring the plan goals and services to ensure this is occurring for the individual.

The intent of the rule change is to provide people with disabilities the full range of opportunities that people without disabilities can access. All providers of HCBS waiver services will have the opportunity to change and expand the supports they offer to meet federal expectations for more community-based options.

Q. What resources are available to make this easy to understand?

You will find easy to understand informational fliers on the DMH Division of Developmental Disabilities HCBS webpage at <http://dmh.mo.gov/dd/hcbs.htm>. The fliers included in this webpage explain the final rule in simple language to assist families in understanding the changes occurring.

Q. How does the HCBS final rule support individuals so that they can live at home and in their own communities?

The intention of the HCBS final rule is:

- So individuals can live at home in their communities
- Can work and have meaningful experiences
- Build upon and encourage strengths
- Build social connections
- Teach social skills

It is designed to improve the quality of services for individuals receiving HCBS and community services. Integration is a key component.

Q. I have heard the proposed change will make providers shut down.

Missouri's plan gives several years plus technical support to providers to help them meet this federally required change. CMS requires that all service settings are compliant by March 17, 2019. Individuals will not lose their supports, and Missouri's plan gives assurances for individuals in this regard.

Q. I have heard that I won't get to keep my roommate.

The rule requires you to have a choice of your roommate or to not have a roommate, as it fits within your budget.

Q. I have heard that multiple homes on a street receiving Independent Supported Living (ISL) services will not meet the requirements of the final rule.

This does not mean that your service will not meet the requirements of the rule, but it will mean that it will fall under what Centers for Medicare and Medicaid Services (CMS) refers to as a "Heightened Scrutiny" setting. "Heightened Scrutiny" settings mean that the location appears to have the effect of isolating individuals from the broader community. CMS will presume these settings to have the qualities of an institution unless they determine through "heightened scrutiny" assessment that the setting actually does have the qualities of a home - and community-based setting, and not an institution. The state will be assessing the "heightened scrutiny" service settings and will submit to CMS for approval the information supporting that the service setting meets the requirements of the final rule.

Q. I have heard that I will have to move to an urban area.

You are not required to move to an urban area. It is a requirement that you have the same choices and access to the community as others who do not have disabilities.

Q: I have heard that because of the final rule people will be forced to sit at home and do nothing.

This is not accurate. The intent of the rule change is to provide people with disabilities the full range of opportunities that people without disabilities can access.

Q: During a recent presentation by ANCOR to MARE, it was mentioned that HCBS funding is available for non-residential services (such as day program) ONLY for those whose residential situation meets the rule standards. Some providers get a large number of our individuals from Residential Care Facilities. While these are not "waivered" residential programs, they do not also meet the rule. Would that make them ineligible to receive services (day hab)?

CMS has indicated that Residential Care Facilities will need to be in compliance with the rule if individuals living there receive any HCBS waiver services. Compliance will be determined based on the opportunities and experiences of the individuals receiving HCB waiver services,

according to the standards set in the HCBS rule, including but not limited to whether the individual has selected the setting from all available choices; whether the individual's rights to privacy, dignity and respect, and freedom from coercion are protected; whether the individual has choice in services and providers; whether the setting is integrated in and facilitates the individuals access to the greater community. The state is currently researching this CMS guidance for the impact and authority.

Q. Will ALL providers be required to do annual self-assessments or just those that provide the 3 services currently being assessed?

Yes, all waiver providers will need to complete annual self-assessments after the initial assessments have been completed.

Q. Does the individual's person-centered service plan document the individual's resources were considered when given options for residential room and board? *What does this mean as far as what information is being requested to be present in the plan?*

At initial placement and annually thereafter, the ISP should document that the planning team reviewed with the individual their benefits, how they're being utilized and if any changes are necessary, what those options might be. For example, if an individual is looking to move to a new location, what discussions have occurred to identify resources available?

Q. Does the individual's person-centered service plan document the individual was given the information necessary to make an informed choice regarding housing? *If someone has a guardian how do we offer choice on housing? Also what type of information is being required for this in the plan because putting a statement in the plan that the "individual was given information" does not seem sufficient?*

The term "individual" includes both the individual and the guardian, if appropriate. Although an individual may have a guardian, they should still be a part of the planning and discussions. At initial placement and annually thereafter, the ISP should document that the planning team reviewed housing options such as HUD vouchers, HUD housing, any housing assistance, preferences for location and type of housing desired, and if any changes are necessary, what those options might be. For example, if an individual is looking to move to a new location, what discussions have occurred to identify the housing options that are available in the community?

Q. The ISP guide does not indicate that information necessary to make informed choice regarding housing has to be in the person centered service plan but our remediation indicates it has to be in the personal plan. *Why is this and where does it state this requirement?*

The ISP is the "guide" to all of the individuals' needs and preferences. As each individual has specific support needs. For example, if an individual has indicated they are upset when new staff

appears and the individual was not notified of the staff change. This should be addressed in the ISP. This ensures the individual's support needs are noted and from there the provider can set up supports to meet the individual's needs.

As individuals have the right to choose their provider of services and change that provider at will, the ISP should document that the planning team discussed the individuals satisfaction with services and educated the individual on their ability to select a new provider and through whom they would make the request.

Q. Have Day Service begun to receive interviews/surveys?

Yes, day service assessments are currently taking place.

Q. How many total interviews will be completed for St. Louis?

Approximately 195 on site assessments will be completed in the St. Louis region.

Q. Have any agencies been assessed at this time or is it still individual assessments?

On-site assessments are individual based. Agencies will receive summaries and requests for remediation with individual assessments.